



2025:DHC:7098-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 13.08.2025

Judgment pronounced on: 21.08.2025

+ MAT.APP.(F.C.) 348/2024, CM APPL. 62203/2024 and CM APPL. 29620/2025

.....Appellant

Through: Mr. J. C. Mahindro, Adv.

versus

.....Respondent

Through: Mr. Sanjay Kumar Chhikana
and Mr. Ujjwal Arora, Adv.
for R-1.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

J U D G M E N T

ANIL KSHETARPAL, J.

1. The present Appeal under Section 19 of the Family Courts Act, 1984 assails the correctness of Order dated 22.03.2024 [hereinafter referred to as “Impugned Order”] passed by the learned Family Court [hereinafter referred to as the “Family Court”], whereby the suit for possession, damages/ use and occupation charges, permanent as well as mandatory injunction filed by the Respondent, was decreed in her favour.

FACTUAL MATRIX

2. The brief facts leading to the present Appeal, as pleaded, are that the Appellant and the Respondent share a matrimonial and



2025:DHC:7098-DB



familial relationship. The Appellant is the daughter-in-law of the Respondent (Plaintiff before Family Court). The Respondent's son, Mr. Nanak Mehta, married the Appellant on 13.04.1999 as per Hindu rites and ceremonies. Out of the said wedlock, a male child was born on 07.02.2000. The Respondent passed away on 14.05.2016, leaving behind two legal heirs, i.e., one daughter, Ms. Pratibha Chadda and one son, Mr. Nanak Mehta, both of whom were brought on record as her legal representatives. It is relevant to note that the Respondent had executed a Will in favour of her daughter, Ms. Pratibha Chadda, who now represents her estate in the present proceedings.

3. The case of the Appellant, before the Family Court, was that she had been residing at property bearing No. D-2/217, Sector-11, Rohini, Delhi [hereinafter referred to as the "suit property"], since her marriage in 1999 and continued to reside there as it constituted her matrimonial home. She claimed that the suit property was initially purchased in the name of her husband, Mr. Nanak Mehta, and was subsequently transferred to his mother, the Respondent, not voluntarily, but under duress, given the strained relationship between the Appellant and the Respondent. The Appellant alleged that since the inception of her marriage, she had been subjected to acts of cruelty, both mental and physical at the hands of her husband, Mr. Nanak Mehta, as well as by her in-laws.

4. The Appellant further claimed that she had made financial contributions, either personally or through her family, towards the purchase and construction of the suit property. In support, she relied upon the testimony of her brother, Mr. Maninder Singh, who claimed



2025:DHC:7098-DB



to have contributed Rs. 60,000/- in 1998 for the said purchase, at the behest of Mr. Nanak Mehta in contemplation of marriage. It was also alleged that the suit property was ancestral in nature, and that her forefathers had contributed financially to its construction. It was contended that following matrimonial discord, the Respondent, in collusion with her son, sought to evict the Appellant from the suit property. Despite her objections, and in the absence of any suitable alternative accommodation, she was allegedly dispossessed from the suit property by force. The suit for possession and injunction was, therefore, filed by the Respondent to regularise and validate the Appellant's unlawful eviction from her matrimonial home.

5. The Appellant further contended that on 19.05.2009, false allegations were levelled against her to the effect that an unidentified person had been residing with her, which led her husband to institute divorce proceedings; in response, she filed a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005 [hereinafter referred to as "PWDV Act"], which, however, came to be dismissed at the threshold on the ground of maintainability, without examination of the merits. It was further submitted that during the pendency of the suit, the Respondent expired on 04.05.2016, whereupon her legal heirs were substituted as Plaintiffs on 31.03.2018. Subsequently, a decree of divorce was passed on 19.11.2019, which was affirmed in Appeal on 09.08.2023 solely on the ground of limitation. The Appellant, however, succeeded before the Hon'ble Supreme Court, which set aside the dismissal and



2025:DHC:7098-DB



remanded the matter for fresh consideration. The said proceedings are presently pending and listed for hearing on 09.10.2025.

6. The case of the Respondent, before the Family Court, was that she was the absolute owner of the suit property, having acquired title thereto by virtue of a registered Conveyance Deed dated 07.06.2011 executed in her favour. It was her case that she had merely permitted her son, Mr. Nanak Mehta, and the Appellant to reside in the suit property out of natural love and affection, without creating any legal right, title or interest in their favour. The Respondent alleged that the Appellant, over time, began to mistreat her and her son and extended undue pressure to have the property transferred in her name. It was further alleged that the relationship between the parties deteriorated to the extent that the Respondent was physically ousted from the suit property and her son, Mr. Nanak Mehta, was assaulted by the Appellant's family members when he resisted demands for transfer of ownership. According to the Respondent, Mr. Nanak Mehta was ultimately compelled to vacate the suit property on 03.09.2004, following which he instituted divorce proceedings against the Appellant. Legal notices were issued by the Respondent on 23.07.2013 and 20.12.2013, revoking the permission granted to the Appellant to reside in the suit property and calling upon her to vacate the same.

7. Despite the aforesaid notices, the Appellant failed to vacate the suit property. The Respondent further alleged that the Appellant had started negotiating with prospective buyers to create third-party rights in the suit property. In these circumstances, the Respondent instituted



2025:DHC:7098-DB



a suit seeking possession of the suit property, damages for unauthorized use and occupation, as well as a decree of injunction restraining the Appellant from alienating, encumbering or creating third-party interest therein.

8. Thereafter, *vide* the Impugned Order dated 22.03.2024, the Family Court, upon considering the record and the submissions made on behalf of both the parties, decreed the suit in favour of the Respondent(s). The Family Court held that the Respondent had duly established her ownership over the suit property through the registered Conveyance Deed dated 07.06.2011, and that the Appellant had failed to substantiate her claim of having contributed financially towards its purchase or construction. It was further observed that even assuming *arguendo* that such contributions were made, the same would not dilute or eclipse the Respondent's title as absolute owner. The Family Court also held that the Appellant's right of residence, if any, was only that of a gratuitous licensee, which stood validly revoked through the legal notices dated 23.07.2013 and 20.12.2013. Taking note of the subsequent dissolution of marriage by decree of divorce dated 19.11.2019, the Family Court concluded that the Appellant had no enforceable right to continue in the premises. Accordingly, a decree of possession and permanent injunction was passed in favour of the Respondent(s), though the claim for damages and use-and-occupation charges was declined for want of cogent evidence. The Appellant was, however, granted six months' time to vacate the suit property.

CONTENTIONS OF THE APPELLANT



2025:DHC:7098-DB



9. Learned counsel for the Appellant submitted that the Family Court committed a grave error in decreeing the suit in favour of the Respondents despite serious disputes regarding the title and possession of the suit property. It was contended that the Respondents, in support of their claim to ownership and possession, relied upon an unregistered and unstamped Will dated 20.07.2013, purportedly executed by the deceased Respondent. The Appellant challenged the authenticity of the said Will and alleged that it was forged and fabricated. Attention was also drawn to a Relinquishment Deed dated 01.11.2016, allegedly executed by Mr. Nanak Mehta, whereby he purported to relinquish his rights in the suit property. According to the Appellant, the very existence of such a document casts a cloud on the Respondents' claim of exclusive title and possession, and undermines the credibility of the Will relied upon by them.

10. Learned counsel further urged that the Family Court failed to appreciate that the Appellant, being the daughter-in-law, had been in continuous residence in the suit property since her marriage, and that the said property constituted her matrimonial home and, therefore, a "shared household" within the meaning of law.

11. Learned counsel further contended that the Family Court failed to take into account the peculiar facts of the case and the settled legal position that a daughter-in-law residing in her matrimonial home is entitled to protection under law. It was submitted that the Appellant had been residing in the suit property since her marriage in 1999 not as a gratuitous licensee, but in her capacity as a legally wedded wife,



2025:DHC:7098-DB



with a right to shared accommodation in her matrimonial home, especially in light of the protection accorded under the PWDV Act.

12. It was further contended that the suit property was not self-acquired property of the Respondent in the exclusive sense, but rather bore the characteristics of joint family/ancestral property, having allegedly been purchased with substantial financial contributions from the Appellant and her family members prior to, and in contemplation of, her marriage. In particular, reliance was placed on the testimony of DW-2, Mr. Maninder Singh, who deposed that he had contributed a sum of Rs. 60,000/- towards the purchase of the suit property in 1998, on the assurance that the same would be in the joint names of the Appellant and her husband. It was argued that the transfer of the property in favour of the Respondent was neither voluntary nor *bona fide*, but was carried out under duress, with the intent to deprive the Appellant of her rightful residence in the matrimonial home. It was urged that the Family Court erred in overlooking these suspicious circumstances and in treating the Respondent as the absolute owner without properly scrutinising the legitimacy of the alleged transfer.

13. Learned counsel further submitted that, notwithstanding the acknowledgment of the Appellant's continuous residence in the suit property, the Family Court erred in overlooking the Respondents' failure to produce cogent evidence of ownership at the time of Appellant's marriage. It was contended that the Conveyance Deed dated 07.06.2011, being executed much later, could not retroactively confer title so as to defeat the Appellant's matrimonial rights. The Family Court further ignored material gaps in the evidence such as the



2025:DHC:7098-DB



inability of PW-1 to specify when the property was originally acquired, coupled with her categorical denial of suggestions that the property had initially stood in the name of her brother and was subsequently transferred to her mother with the sole object of frustrating the Appellant's lawful claims.

14. It was further argued that the proceedings before the Family Court were collusive in nature, having been initiated at the instance of Mr. Nanak Mehta with the sole objective of securing the Appellant's eviction during the pendency of matrimonial disputes, including a divorce petition filed as far back as 2009 and several cross-complaints between the parties. It was submitted that the eviction proceedings were not only premature but also coercive, and that the Appellant had been sought to be dispossessed without provision of any suitable alternative accommodation, in contravention of her rights as a legally wedded wife residing in her matrimonial home.

15. Learned counsel submitted that the Will relied upon by the Respondents was surrounded by suspicious circumstances. It was pointed out that the attesting witness, PW-3, was unable to identify or even name the second attesting witness, as required under law, and was confronted in cross-examination with the allegation that he had appended his signature in consideration of monetary inducement. These factors, it was urged, cast serious doubt on the authenticity and validity of the alleged Will, which could not have been relied upon by the Family Court to uphold the Respondents' claim.



2025:DHC:7098-DB



16. Learned counsel therefore submitted that the Family Court failed to properly appreciate the disputed documents and factual controversies, particularly with respect to title and ownership of the suit property. It was urged that these issues went to the root of the matter and required a more detailed examination, and that the Family Court, by overlooking such material disputes, committed a grave error in decreeing the suit in favour of the Respondents.

CONTENTIONS OF THE RESPONDENT

17. *Per contra*, learned counsel for the Respondents supported the Impugned Order and submitted that the Family Court had rightly appreciated the evidence on record and decreed the suit in favour of the Respondents. It was submitted that the Respondents are the lawful owners of the suit property, and the Will dated 20.07.2013 executed by the deceased Respondent is valid and binding. The authenticity of the Will has been duly established and the Appellant's allegations of forgery and fabrication are baseless and devoid of merit.

18. Learned counsel further submitted that the Relinquishment Deed dated 01.11.2016, relied upon by the Appellant, was executed under circumstances that do not in any manner derogate from or extinguish the Respondents' lawful title and possession over the suit property. It was urged that the Appellant's claim of having contributed financially towards the purchase or construction of the suit property is speculative and unsupported by any credible evidence. The suit property, it was submitted, is ancestral in nature and has been rightfully inherited by the Respondents upon the demise of the



2025:DHC:7098-DB



original owner. Learned counsel also contended that following the decree of divorce between the Appellant and Mr. Nanak Mehta, the Appellant ceased to have any status as a member of the family, and consequently, the suit property no longer constituted her matrimonial home. Hence, no protection or right of residence could be claimed under the concept of “shared household” as contemplated under the PWDV Act, or under any other provision of law.

19. It was further argued that the Appellant’s residence in the suit property was always subject to the ownership rights of the Respondents, and upon dissolution of the matrimonial relationship, she had no legal or equitable right to reside there. The eviction was, therefore, lawful and justified. The Family Court, it was contended, had duly appreciated the pleadings and evidence on record and rightly held that the Appellant’s occupation of the premises, post-divorce, was unauthorized and without any protection in law.

20. In light of the above submissions, learned counsel for the Respondents prayed for dismissal of the Appeal and for affirmation of the Impugned Order dated 22.03.2024.

FINDINGS & ANALYSIS:

21. We have considered the rival submissions advanced on behalf of the parties and perused the material on record. The core issues for determination in the present Appeal are:

- (i) Whether the Respondents have established their ownership and lawful possession of the suit property;



2025:DHC:7098-DB



- (ii) Whether the Will dated 20.07.2013, relied upon by the Respondents, is genuine, valid, and capable of conferring title;
- (iii) Whether the Appellant or her family members contributed financially towards the acquisition of the suit property so as to create any enforceable right in her favour; and
- (iv) Whether the Appellant is entitled to continue residing in the suit property, particularly in view of the subsequent dissolution of her marriage, and whether the property qualifies as a “shared household” within the meaning of the PWDV Act.

22. It is not in dispute that the Appellant married Mr. Nanak Mehta on 13.04.1999 and thereafter took residence in the suit property. The matrimonial relationship, however, soon became strained, leading to initiation of proceedings both under the Hindu Marriage Act and the PWDV Act. The Appellant’s complaint under Section 12 of the PWDV Act came to be dismissed on grounds of maintainability, without adjudication on merits. Insofar as the matrimonial proceedings are concerned, the petition for divorce filed by Mr. Nanak Mehta was allowed on 19.11.2019. The Appellant’s appeal against the said decree was dismissed as barred by limitation, but the Hon’ble Supreme Court, in Special Leave Petition, has condoned the delay and remanded the matter for consideration on merits. The appeal against the divorce decree is presently pending before this Court and is listed for hearing on 09.10.2025.

23. The Appellant has further asserted that the suit property constituted her matrimonial home and shared household since the date



of her marriage in 1999. She challenged the ownership of the Respondents, alleging that the transfer of the property in favour of the deceased Respondent, her mother-in-law, was effected under duress. It is her case that she and her family members had contributed financially towards the purchase and construction of the property. According to the Appellant, these contributions, coupled with her continuous residence, confer upon her a right of occupation which could not have been defeated by the subsequent transfer. These contentions, if established, would directly impinge upon the Respondents' claim of absolute ownership and are therefore central to the determination of her asserted right of residence.

24. A pivotal issue that arises is whether, upon the dissolution of marriage and consequent cessation of the matrimonial relationship, the Appellant retains a right of residence in the suit property under Section 17 of the PWDV Act. Section 17 provides as under:

“17. Right to reside in a shared household.—

(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.”

25. A plain reading of the provision confers upon every woman in a domestic relationship the right to reside in the shared household, irrespective of whether she has any right, title or beneficial interest in



2025:DHC:7098-DB



the same. However, this right is not indefeasible. It does not create a proprietary interest in the property and is subject to lawful eviction in accordance with due process.

26. The Hon'ble Supreme Court in *Satish Chander Ahuja v. Sneha Ahuja*¹, clarified that a woman may assert her right of residence in a "shared household" even where the property is neither jointly owned nor rented by the husband, so long as she has lived there in a domestic relationship. The Court emphasized that the term "shared household" must receive a purposive interpretation to advance the object of the PWDV Act. Similarly, in *Prabha Tyagi v. Kamlesh Devi*², it was held that the protection of residence may extend even beyond the husband's lifetime, provided the household was indeed a shared one during the subsistence of the relationship. These pronouncements underscore that the foundation of the right lies in the existence of a domestic relationship, and that such protection is not automatically extinguished by the absence of proprietary rights or by the demise of the husband.

27. Nonetheless, the statutory protections under Section 17 of the PWDV Act are firmly anchored in the existence of a "domestic relationship." Section 2(f) of the PWDV Act defines a domestic relationship as a relationship between two persons who live, or have at any point of time lived, together in a shared household when they are related by consanguinity, marriage, or a relationship in the nature of marriage. Once the marriage stands dissolved by a valid decree of

¹ (2020) 11 SCC 770

² (2022) 8 SCC 90



2025:DHC:7098-DB



divorce, the domestic relationship comes to an end. Consequently, the substratum upon which the right of residence is founded no longer survives, unless a contrary statutory right is shown to persist.

28. In the present case, the Appellant's marriage to Mr. Nanak Mehta was dissolved by a decree of divorce dated 19.11.2019. Although the said decree has been challenged by the Appellant and the matter stands remanded for fresh adjudication, as on date there is no subsisting matrimonial bond or domestic relationship between the parties. In the absence of such a relationship, the foundational requirement for invoking Section 17 of the PWDV Act is lacking. Accordingly, the Appellant's assertion of a continuing right of residence under the Act is materially weakened, subject of course to the outcome of her pending appeal.

29. Having held that the Appellant's claim of residence as a member of a shared household under the PWDV Act does not survive the dissolution of marriage, the focus now shifts to the question of ownership and possession of the suit property. The Respondents rest their claim substantially on a Will dated 20.07.2013, allegedly executed by the deceased Respondent in favour of her daughter, Ms. Pratibha Chadda. The Appellant disputes the genuineness of the Will, terming it forged and fabricated, and highlights suspicious circumstances attending its execution. The Will, however, was duly produced and proved through PW-3, Mr. Prem Mahendru, one of the attesting witnesses. While in cross-examination he was unable to recall the name of the other attesting witness and was confronted with unfounded suggestions of monetary inducement, these lapses do not,



2025:DHC:7098-DB



in themselves, shake the core of his testimony or the legal validity of the execution. The document bears the requisite signatures and satisfies the statutory requirements under Section 63 of the Indian Succession Act and Section 68 of the Indian Evidence Act. Consequently, the Will stands duly proved, and the Respondents' title flowing therefrom cannot be doubted.

30. Reliance was also placed on the Relinquishment Deed dated 01.11.2016, allegedly executed by Mr. Nanak Mehta in favour of his sister. Although the Appellant has urged that this was a collusive device to defeat her claim of residence, such an allegation remains wholly unsubstantiated. The Family Court has rightly placed reliance on the registered Conveyance Deed dated 07.06.2011, which independently establishes that the title in the suit property vested in the deceased Respondent, and thereafter devolved in terms of the Will. The Relinquishment Deed only fortifies this position by extinguishing any ostensible claim of the Appellant's estranged husband. The Appellant's criticism that PW-1 could not recall the precise details of the original acquisition does not, in our view, dilute the evidentiary worth of the registered documents. Once the Respondents have produced valid registered instruments demonstrating title, the burden lay upon the Appellant to prove her plea of contribution or duress, which she has failed to discharge.

31. The plea that the suit property is ancestral or that the Appellant and her family had jointly contributed towards its acquisition was also considered. However, the evidence adduced falls short of establishing any legal or equitable interest of the Appellant. The assertion that her



2025:DHC:7098-DB



brother, Mr. Maninder Singh, advanced a sum of Rs. 60,000/- in 1998 remained uncorroborated by any documentary proof; indeed, the witness candidly admitted to not having any receipts or records of such payment. While the oral testimony may reflect the witness's belief, it does not satisfy the evidentiary standard necessary to dislodge the registered title documents produced by the Respondents. Consequently, the Appellant's claim of contribution cannot translate into an enforceable proprietary right.

32. As regards the eviction, the record demonstrates that due process was scrupulously observed. Notices revoking the Appellant's permissive occupation were issued as far back as 2013, followed by the institution of the possession suit. The Appellant was afforded ample opportunity to defend her claim, and the Family Court decreed possession only after a comprehensive appraisal of the pleadings and evidence. Significantly, even while decreeing eviction, the Appellant was granted six months' time to vacate, thereby underscoring that the process was neither arbitrary nor inequitable.

33. Learned counsel for the parties have not made any other submissions.

CONCLUSION

34. In light of the foregoing discussion on facts as well as the applicable legal principles, this Court finds no infirmity in the Impugned Order passed by the Family Court. The findings are well-reasoned, and based on a fair appraisal of the evidence. The Family Court rightly decreed the suit in favour of the Respondents, affirming



2025:DHC:7098-DB



their title and possession over the suit property, and in rejecting the Appellant's claim to continued residence or ownership rights We, therefore, see no reason to interfere.

35. Having found no merit in the present appeal, the same stands dismissed, along with all pending applications.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 21, 2025/sg/pl